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**BEST AVAILABLE COPY**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

BATCHELOR et al.

Atty. Ref.: 2558-73

Serial No. 10/659,703

Group: 3731

Filed: September 11, 2003

Examiner: Nguyen, V.

For: A SURGICAL INSTRUMENT

\* \* \* \* \*

October 4, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR ACKNOWLEDGEMENT OF  
RECEIPT OF PRIORITY DOCUMENT FOR  
CLAIM FOR PRIORITY UNDER 35 U.S.C. §119**

Sir:

In the Transmittal Sheet filed with this application on September 11, 2003, a claim was made for foreign priority benefits under 35 U.S.C. §119 based on U.K. Application No. 0111463.6, filed May 10, 2001, in the present application's parent application Serial No. 10/139,638, filed on May 7, 2002. A copy of the Transmittal Sheet for filing the present application with the claim for priority under §119 is attached to this request as Attachment A.

Also attached is a copy of a Submission of Priority Document filed in the parent '638 application on May 29, 2002, submitting a certified copy of the U.K. application priority document. A copy of the priority document submission is attached to this request as Attachment B. Included in Attachment B are copies of the first two pages of the U.K.

priority document and the post card stamped by the Patent Office acknowledging receipt of the Submission of Priority Document in the parent '638 application.

An Office Action was issued in this application on September 9, 2005. It is noted that the Office Action Summary mailed with the Office Action included an acknowledgement of the claim for foreign priority under 35 U.S.C. under §119, but did not include an acknowledgement of the receipt by the Patent Office of the certified copy of the U.K. priority document. Accordingly, the undersigned respectfully requests acknowledgement of receipt of the certified copy of the U.K. priority document. If the Examiner has any questions regarding this request, he is urged to call the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this Firm) to our Deposit Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: Robert A. Molan

Robert A. Molan  
Reg. No. 29,834

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING APPLICATION UNDER 37 C.F.R. 1.53(b)  
WITHOUT FILING FEE AND/OR WITHOUT EXECUTED INVENTOR'S DECLARATION

Mail Stop Patent Application

Atty. Dkt. 2558-73

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

This is a request for filing a new PATENT APPLICATION under Rule 53(b) entitled:

**A SURGICAL INSTRUMENT**

without a filing fee and/or without an executed inventor's oath/declaration.

This application is made by the below identified inventor(s). Attached hereto are the following papers:

- Newly executed Declaration,  Copy of Declaration from prior application,  Abstract  
 Please delete the following inventors in the continuation/division/continuation-in-part application:

**Deleted persons:**

10 pages of specification and claims (including 20 numbered claims), and  
3 sheets of accompanying drawing/s, (including Figs. 1-4B).

Attached is a Power of Attorney.

Priority is hereby claimed under 35 U.S.C. § 119 based on the following foreign applications:

<b>Application Number</b>	<b>Country</b>	<b>Day/Month/Year Filed</b>
0111463.6	UK	10 May 2001

PCT

, respectively, the entire content of which is hereby incorporated by reference in this application..

Certified copy(ies) of foreign application(s) is/are attached.

Certified copy(ies) filed on May 29, 2002 in prior application no. 10/139,638 filed May 7, 2002

This application claims the benefit of Provisional Application No.60/305,097, filed 16 July 2001, the entire content of which is hereby incorporated by reference in this application.

This application is a  continuation/ division/ continuation-in-part of Application No.10/139,638, filed May 7, 2002, the entire content of which is hereby incorporated by reference in this application.

Petition filed in prior application to extend its life to insure co-pendency.

The prior application is assigned to Gyrus Medical Limited, Cardiff, United Kingdom

It is hereby requested that the Examiner consider the art cited in the above parent application(s) by applicant and/or the Examiner for the reasons stated therein. A listing of that art is attached, but pursuant to Rule 98(d) copies are not required.

Applicant claims "small entity" status.  "Small entity" statement attached.

Please enter the attached and/or below preliminary amendment prior to calculation of filing fee:

Also attached:  Information Disclosure Statement;  Non-Publication Request;  Nucleotide and/or Amino Acid Sequence Submission;  Statement deleting Inventor(s) named in prior application;  Other:  
**Copy of Original Specification from parent Appln. No. 10/139,638**

1.	Inventor:	Kester (first)	J. MI	Batchelor (last)	British (citizenship)
	Residence: (city)	Newport	(state/country) South Wales, United Kingdom		
	Mailing Address:	10, Ridgeway Grove, Newport, South Wales, United Kingdom			
	(Zip Code)	NP20 5AN			
2.	Inventor:	Julian (first)	M. MI	Ebbutt (last)	British (citizenship)
	Residence: (city)	Cardiff	(state/country) United Kingdom		
	Mailing Address:	1 Woodfield Close, Marshfield, Cardiff, United Kingdom			
	(Zip Code)	CF3 2TA			

See attached sheet(s) for additional inventor(s) information!!

Address all future communications to NIXON & VANDERHYE P.C., 1100 North Glebe Road, 8<sup>th</sup> Floor, Arlington, VA 22201.

Correspondence Address:

NIXON & VANDERHYE P.C.

**Customer Number:**

**23117**

By Atty: Robert A. Molan, Reg. No. 29,834

Telephone: (703) 816-4000

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RAM:drt

Signature: Robert A. Molan

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BATCHELOR et al.

Serial No. 10/139,638

Filed: May 7, 2002

For: A SURGICAL INSTRUMENT



Atty. Ref.: 2558-59

Group: Not Yet Assigned

Examiner: Not Yet Assigned

\* \* \* \* \*

May 29, 2002

Director for Patents  
Washington, DC 20231

**SUBMISSION OF PRIORITY DOCUMENT**

Sir:

It is respectfully requested that this application be given the benefit of the foreign filing date under the provisions of 35 U.S.C. §119 of the following, a certified copy of which is submitted herewith:

<u>Application No.</u>	<u>Country of Origin</u>	<u>Filed</u>
0111463.6	UK	10 May 2001

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: Robert A. Molan

Robert A. Molan

Reg. No. 29,834

RAM:drt

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**The**  
**Patent**  
**Office**

10 MAY 2001

**Request for grant of a patent**

(See the notes on the back of this form. You can also get an explanatory leaflet from the Patent Office to help you fill in this form)

11 MAY 01 E628548-15 001063  
PO1/500/00/00-1111463.6

The Patent Office  
Cardiff Road  
Newport  
South Wales  
NP10 8QQ

1. Your reference P503363GB/46615

2. Patent application number  
(*The Patent Office will fill in this part*)**0111463.6**

10 MAY 2001

3. Full name, address and postcode of the or of each applicant (*underline all surnames*)

Gyrus Medical Limited  
Fortran Road  
St Mellons  
Cardiff  
CF3 0LT  
United Kingdom

Patents ADP number (*if you know it*)

5509116003

If the applicant is a corporate body, give the country/state of its incorporation

United Kingdom

4. Title of the invention

A Surgical Instrument

5. Name of your agent (*if you have one*)

"Address for service" in the United Kingdom to which all correspondence should be sent  
(*including the postcode*)

WITHERS & ROGERS  
Goldings House  
2 Hays Lane  
London  
SE1 2HW

Patents ADP number (*if you know it*)

1776001

6. If you are declaring priority from one or more earlier patent applications, give the country and the date of filing of the or each of these earlier applications and (*if you know it*) the or each application number

Country

Priority application number  
(*if you know it*)Date of filing  
(*day / month / year*)

7. If this application is divided or otherwise derived from an earlier UK application, give the number and the filing date of the earlier application

Number of earlier application

Date of filing  
(*day / month / year*)8. Is a statement of inventorship and of right to grant of a patent required in support of this request? (*answer 'Yes' if:*

- a) *any applicant named in part 3 is not an inventor, or*
- b) *there is an inventor who is not named as an applicant,* YES
- or
- c) *any named applicant is a corporate body.*  
*See note (d))*



INVESTOR IN PEOPLE

The Patent Office  
Concept House  
Cardiff Road  
Newport  
South Wales  
NP10 8QQ

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I, the undersigned, being an officer duly authorised in accordance with Section 74(1) and (4) of the Deregulation & Contracting Out Act 1994, to sign and issue certificates on behalf of the Comptroller-General, hereby certify that annexed hereto is a true copy of the documents as originally filed in connection with the patent application identified therein.

accordance with the Patents (Companies Re-registration) Rules 1982, if a company named in this certificate and any accompanying documents has re-registered under the Companies Act 1980 with the same name as that with which it was registered immediately before re-registration save for the substitution as, or inclusion as, the last part of the name of the words "public limited company" or their equivalents in Welsh, references to the name of the company in this certificate and any accompanying documents shall be treated as references to the name with which it is so re-registered.

In accordance with the rules, the words "public limited company" may be replaced by p.l.c., plc, L.C. or PLC.

Re-registration under the Companies Act does not constitute a new legal entity but merely subjects the company to certain additional company law rules.

Signed

Dated 10 May 2002

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C#/M#: 2559-59

Serial No.: 10,139,638

Atty: RAM

Inventor/s: Batchelor et al.

Date: May 29, 2002

Title: A SURGICAL INSTRUMENT

**X Priority Document (U.K. 0111463.6, filed  
5/10/01)**

